

B. B. asks the Utah Labor Commission to review Administrative Law Judge George's denial of Mr. B.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

BACKGROUND AND ISSUE PRESENTED

Mr. B. claims workers' compensation benefits for injuries allegedly caused by a work accident at the Franklin Company on March 13, 2001. Prior to any evidentiary hearing on Mr. B.'s claim, the parties stipulated to the facts relevant to the medical aspects of Mr. B.'s claim. The parties further stipulated that Judge George should appoint an impartial medical panel to evaluate such medical issues.

Pursuant to the parties' agreement, Judge George appointed the medical panel. After receiving the panel's report, Judge George interpreted the report as indicating that Mr. B.'s work accident of March 13, 2001, did not medically cause Mr. B.'s injuries. Based on that interpretation, Judge George denied Mr. B.'s claim.

Mr. B. now asks the Commission to review Judge George's decision. Specifically, Mr. B. contends that Judge George has misinterpreted the medical panel's opinion.

DISCUSSION

The particular question before the Commission is whether the evidence establishes that Mr. B.'s work accident caused or aggravated the injuries for which he seeks benefits. The parties' own medical experts disagree on this issue. It was that disagreement that led Judge George to appoint an impartial medical panel.

The medical panel appointed by Judge George consisted of a neurologist and orthopedic surgeon, well-respected and knowledgeable in their respective fields. The panelists personally examined Mr. B., reviewed his diagnostic tests, and also reviewed the opinions of all other treating and consulting physicians. The panel then issued a thorough and well-reasoned report that the Commission finds persuasive.

With respect to the issue now before the Commission, the panel was asked the following question and gave the following reply:

Question: Did the March 13, 2001 industrial injury aggravate the preexisting cervical condition, and if so, was the aggravation temporary or permanent?

Answer: The panel members observe a number of incidents in the petitioner's past both recent and more remote which have exacerbated his cervical symptoms. These were pointed out in

the Stipulation of Facts as well. Riding on rough roads, hitting the top of his head under the cab roof while deer hunting, hitting his head on a railing that he ducked under, minor motor vehicle accidents, all have led to symptoms which appear identical to the symptoms which occurred as a result of the work-related injury of March 13, 2001. There have been enough of these incidents that from a review of the record it is not possible to determine that one was more responsible for his present symptoms than another. Thus, the panel members agree that the aggravation of the preexisting cervical condition as a result of the work injury was temporary and one of many.

The foregoing answer shows the panel's careful consideration of all the pertinent events in Mr. B.'s medical history, as well as the panel's recognition of the complex nature of Mr. B.'s medical problems and the difficulty of sorting out medical causation. It is in these very difficult medical situations that the training, experience, skill and impartiality of the medical panel are so valuable. It is the panel's view that Mr. B.'s work injury did temporarily aggravate his preexisting condition.

In light of the foregoing, the Commission concludes that Mr. B. has established a medical causal connection between his work and the temporary aggravation of his preexisting condition. The Commission therefore sets aside Judge George's contrary opinion. However, it remains to be determined whether Mr. B. satisfies all other requirements of the Act so as to be entitled to any specific benefits. The Commission remands this matter to Judge George to complete the adjudication of Mr. B.'s claim.

ORDER

The Commission sets aside Judge George's previous decision and remands this matter to Judge George for further action consistent with this decision. It is so ordered.

Dated this 15th day of June, 2004.

R. Lee Ellertson, Commissioner